HON'BLE SHRI JUSTICE NOOTY RAMAMOHANA RAO

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Writ Petition No. 34060 of 1997

Between

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K.V.Subrahmanyam and others ..Petitioners

AND

The Secretary to the Government, Revenue (Land Acquisition) Department and another ..Respondents

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:: JUDGMENT ::

28.3.2007

HON'BLE SHRI JUSTICE NOOTY RAMAMOHANA RAO

Writ Petition No. 34060 of 1997

The writ petitioners appear to be some of those persons from whom land admeasuring Ac.7.55 forming part of a large extent was acquired situate in Mamidipalem Village near Ongole for the purpose of constructing Circle Camp Colony for Nagarjuna Sagar Project Staff as long back as in the year 1971. The compensation was also paid for the land acquired by the State. Unfortunately, the State Government had not put the entire extent of land acquired by it to use. In those set of circumstances, considering various representations, the State Government has taken a decision through its G.O.Rt.No.1621, Revenue (Land Acquisition) Department dated 23.12.1995 to re-convey the land in question to the original owners and accordingly directed the Collector, Prakasham District to re-convey the land measuring Ac.6.38 cents in Survey No.82/4 and an extent of Ac.0.72 cents in S.No.82/13 of Mamidipalem Village and to recover the compensation amount paid to the original owners together with interest as per rules in force. Inspite of these orders, the writ petitioners assert that the District Collector, Prakasham District had not re-conveyed the lands. But in the meantime, the State Government has passed orders through their G.O.Rt.No.77, Revenue (Land Acquisition) Department dated 23.1.1996 pointing out that the State Government had reviewed the case and decided to keep the

orders passed by it in G.O.Rt.No.1621 dated 23.12.1995 in abeyance pending further consideration and decision of the State Government. In those set of circumstances, this writ petition came to be instituted questioning the correctness of the orders passed by the State Government in G.O.Rt.No.77 dated 23.1.1996.

The State Government had filed its counter affidavit pointing out that it had utilized large extent of lands for various public purposes by constructing buildings and godowns, but still there was some extent of land which is yet to be put to use and in these set of circumstances the State Government has passed orders through G.O.Rt.No.77 dated 23.1.1996 when the matter is receiving the attention of the State Government as to whether land once acquired and compensation paid can still be re-conveyed in favour of the original owners, at all.

At my instance, the learned Government Pleader for Land Acquisition had taken time to obtain latest instructions in the matter and placed before me today the orders passed by the State Government through their G.O.Rt.No.164 dated 8.3.1999 canceling the orders passed by it through G.O.Rt.No.1621 dated 23.12.1995. The State Government would assert that the land in question is required for meeting another public purpose as reported by the Collector, Prakasham in his communication dated 10.9.1995 and that in fact, the Supreme Court had pointed out in its judgment in C.A.No.3628 of 1997 that land once acquired and compensation paid for, would vest with the Government free from all encumbrances and thereafter there was no further obligation for the State Government to re-convey the land in favour of the original owners even if the land is not put to the same use for which it was acquired or for any other public purpose. In view of the orders passed by the State

Government in their G.O.Rt.No.164 dated 8.3.1999, the *lis* regarding the validity of the orders passed by the State Government in G.O.Rt.No.77 dated 23.1.1996 does not survive for adjudication for, those orders were issued pending further decision by the State Government and now that the final decision of the State Government has been announced through G.O.Rt.No.164 dated 8.3.1999.

Insofar as the question of re-conveying the land in favour of the original owners is concerned, the issue has been set at rest by the authoritative pronouncement of the Supreme Court in many cases. In **Northern Indian Glass Industries v. Jaswant Singh and others**[1] it was held:

> "if the land was not used for the purpose for which it was acquired, it was open to the State Government to take action but that did not confer any right on the respondents to ask for restitution of the land".

The principle enunciated in the decision in **Northern Indian Glass Industries** (supra) has been reiterated again in **Government of A.P. v. Syed Akbar**[2]**.**

It was held in **Bangalore Development Authority v. R.Hanumaiah**[3] that re-conveyance cannot be ordered by invoking even the principle of promissory estoppel.

In this view of the mater, I dismiss the writ petition duly taking on record the orders passed by the State Government in G.O.Rt.No.164 dated 8.3.1999. No costs.

NOOTY RAMA MOHANA RAO.J.

28.3.2007
psr

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[1] AIR 2003 SC 234 = (2003) 1 SCC 335

[2] AIR 2005 SC 492

[3] AIR 2005 SC 3631